



January 4, 2011

Theresa Aguilar Finger, Special Project Manager, MBA/TM, C.P.A.  
Secretary of State  
1500 11<sup>th</sup> Street, 6<sup>th</sup> Floor  
Sacramento, CA 95814

RE: Proposed Regulations Related to Trustworthy Electronic Document or Record Preservation

Dear Ms. Aguilar Finger,

I continue to be concerned about the proposed regulation's broad scope of applicability, and re-submit my suggestion for more clearly defining "Official documents" or "official records."

(h) "Official documents" or "official records" are those final, fully executed records defined as such in applicable statutes and in business practices of the entity responsible for retaining said final, fully executed documents or records. In the absence of applicable statutes, official records or documents are those defined in the entity's business practices as final, fully executed records.

Here is an alternate suggestion:

(h) "Official documents" or "official records" are those defined as such in applicable statutes and in business practices of the entity responsible for retaining said documents or records. In the absence of applicable statutes, official records or documents are those defined in the entity's business practices. "Official documents" or "official records" excludes preliminary drafts, copies, notes, or other documents or records not intended to be retained in the ordinary course of business.

The California Public Records Act defines a "record" is any writing containing information relating to the conduct of the public's business that is prepared, owned, used, or retained ... regardless of physical form or characteristics.<sup>1</sup>

As currently defined, I believe the proposed regulation may apply to all records – notes, drafts, copies, e-mail, messages, etc. This would create an unfunded mandate for local governments.

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<sup>1</sup> Government Code §6252 through §6257

I also appreciate the Secretary of State's commitment to providing training after the adoption of the regulations. Employees in public agencies do not have the time to read through the numerous regulations they must comply with, many are not even aware of the California Code of Regulations, and presentations by your office at various state-wide conferences for various professions will be valuable.

In particular, I have found a lot of confusion relating to the requirement in AIM-ARP1-2009, 5.3.3 (c) "... write at least one copy of the electronic document or record into **electronic media that does not permit unauthorized additions, deletions, or changes to the original document** and that is to be stored and maintained in a safe and separate location."

This is an area that will need special attention and discussion during your forthcoming training sessions.

Sincerely yours,

A handwritten signature in black ink, reading "Diane R. Gladwell". The signature is written in a cursive, flowing style.

Diane R. Gladwell, MMC  
President